

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ESTATE OF TIERRA HILL,

Plaintiffs,

v.

MARIE RICHARDS,

Defendant.

ORDER

06-cv-732-bbc

A jury found in favor of defendant Marie Richards on plaintiff Estate of Tierra Hill's claim that Richards violated Hill's constitutional rights by failing to prevent her suicide while she was incarcerated at the Dane County jail. Judgment was entered on March 11, 2008.

Now plaintiff has moved for a new trial on the ground that the court instructed the jury on an incorrect legal standard. Because Hill was a pretrial detainee rather than a convicted prisoner, plaintiff argues that the standard for liability is "reasonableness," citing Hare v. City of Corinth, Mississippi, 36 F.3d 412 (5th Cir. 1994), rather than the deliberate indifference standard used by this court.

The problem with plaintiff's argument is that the Court of Appeals for the Seventh Circuit has consistently and without exception decided constitutional claims for failure to

prevent a pretrial detainee's suicide using the same deliberate indifference standard employed for convicted prisoners. E.g., Cavalieri v. Shepard, 321 F.3d 616, 620 (7th Cir. 2003); Payne v. Churchich, 161 F.3d 1030, 1040 (7th Cir.1998); Estate of Cole by Pardue v. Fromm, 94 F.3d 254, 258 (7th Cir. 1996); Hall v. Ryan, 957 F.2d 402, 405 (7th Cir. 1992). See also Williams v. Rodriguez, 509 F.3d 392, 401 (7th Cir. 2007) ("Although the Eighth Amendment only applies to convicted prisoners, this court has previously stated that the same standard applies to pretrial detainees under the Fourteenth Amendment's due process clause.") Until the court of appeals holds differently, I am bound by those rulings.

ORDER

IT IS ORDERED that the motion by plaintiff Estate of Tierra Hill for a new trial is DENIED.

Entered this 26th day of March, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge